IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL WRIT No. 656 of 2006

SHOHAN LAL ASERI
V/S
SHANTI LAL & ANR.

Mr. VINAY JAIN, for the appellant / petitioner

Date of Order : 25.4.2006

HON'BLE SHRI N P GUPTA,J.

ORDER

Heard learned counsel for the petitioner.

By the impugned order, the learned Lower Appellate Court has dismissed the application of the petitioner filed under Order 6 Rule 17 read with Order 41 Rule 27, seeking amendment in the written-statement, to the effect, that in view of the death of the plaintiff's wife, the bonafide necessity has come to an end. The learned Lower Appellate Court has rejected the prayer on the ground that in para-4 of the plaint, the plaintiff had pleaded that looking to his social and family status, he can not carry on, on the pension amount, and therefore, needs the suit shop for carrying on the business of book stationary etc., and that the aspect of ailment of the wife was not part of the pleading. In that view of the matter, it was found that the fact of death of wife has no material bearing on the real question in controversy between the parties.

Having read the pleadings as produced on record,

and the impugned order, so also the judgment of the learned trial Court, in my view, it can not be said that the learned Lower Appellate Court has committed any error in dismissing the application.

The writ petition thus, has no force, and is dismissed summarily.

(N P GUPTA),J.

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